

US BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

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In re: Henry D. Goldman and Cheryl E. Goldman  
Debtor s

Chapter 7  
Case No. 1:12-bk-20059

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**SECOND MOTION TO AVOID JUDICIAL LIEN**

Debtors commenced this case on **12/31/2012** by filing a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code.

Pursuant to 28 U.S.C. § 1334, this court has jurisdiction over this motion pursuant to 11 U.S.C. § 522(f) to avoid and cancel a judicial lien held by **Midland Funding LLC** on real property used as the debtor's residence.

On **10/02/2012**, creditor recorded a judicial lien against debtors' residence at: **33 Old Country Way, Weymouth, MA 02188 (Book 30515 Page 575-576 Norfolk County Registry of Deeds Dedham, MA) (attached as Exhibit A)**

Debtors state the following in compliance with the provisions of MLBR 4003-1:

- (1) The holder of the judicial lien is **Midland Funding LLC** located at **8875 Aero Drive, Suite 200, San Diego CA 92123** (represented by Kenneth C Wilson Esq, Lustig Glaser & Wilson PC, PO Box 549287, Waltham MA 02454-9287);
- (2) The judicial lien was granted on **09/25/2012** by **Quincy District Court, One Dennis Ryan Pkwy, Quincy MA 02169**;
- (3) The lien is held in the amount of **\$13,417.99**;

(4) Holders of other liens on the property, in order of priority, are:

(A) (Mortgage): Bank of America, 450 American St. Simi Valley, CA  
93065

(B) (Mortgage): Bank of America, 450 American St. Simi Valley, CA  
93065

(5) The amount of the other liens on the property are:

(A) \$183,921.00 (Bank of America);

(B) \$146,409.00 (Bank of America)

(Total: \$330,330.00)

(6) Debtors' homestead exemption in the amount of \$310,900.00 under Mass. Gen. Laws ch. 188, §§ 1 through 14 and Mass. Gen. Laws ch. 235, § 34(14) is impaired.

(7) Debtors interest in the property is 0 (Assessed value is \$310,900.00 minus mortgages totaling \$330,330.00)

(8) Applying the formula under 11 U.S.C. §522(f)(2)(A):

Value of lien seeking to avoid: \$13,417.99

Value of all other liens: \$330,330.00

Amount of exemption claimed if there were no liens: \$310,900.00

Total: \$654647.99

Value that property would have in the absence of any liens: \$310,900.00

(9) Debtors Henry D Goldman and Cheryl E Goldman contend that the entire amount of the lien, \$13,417.99, is therefore voidable.

(10) Please see attached homestead for debtors Henry D Goldman and Cheryl E Goldman of 33 Old Country Way, Weymouth MA, recorded in the **Norfolk County Registry of Deeds Book 28801 Page 269 (Exhibit B)**.

Debtors further state that a homestead exemption of \$500,000 has been claimed by the debtors on Schedule C.

The debtors' interest in the property at **33 Old Country Way Weymouth, MA**, assessed value **\$310,900.00 (Exhibit C)** and encumbered by the lien has been claimed as fully exempt in the debtor's bankruptcy case.

The existence of the creditor's lien on debtors' real property impairs exemptions to which the debtors would be entitled under 11 U.S.C. § 522(b).

WHEREFORE, debtors prays for an order against **Midland Funding LLC** avoiding and canceling the judicial lien in the above-mentioned property, and for such additional or alternative relief as may be just and proper.

Dated: May 30, 2013

/s/ Henry D Goldman  
/s/ Cheryl E Goldman  
Debtor s

/s/ Steven Sroczynski  
Steven Sroczynski, BBO #680387  
Attorney for Debtors  
Thomas F. Williams & Associates, P.C.  
21 McGrath Highway Suite 501  
Quincy, MA 02169  
(617) 847-4200 Fax: (617) 328-8504  
ssroczynski@lawofficetwilliams.com

## Exhibit A



Michael G. Bellotti  
Sheriff

*The Commonwealth of Massachusetts*  
*County of Norfolk*  
**SHERIFF'S DEPARTMENT**  
Division of Civil Process

2015 Washington Street  
P.O. Box 859215  
Braintree, MA 02185-9215  
Tel. (781) 326-1787 • Fax (781) 326-0288



Jeffrey J. Nourse  
Deputy Superintendent

Date: 10/2/2012 Time: 8:31 AM

Plaintiff: Midland Funding LLC

Plaintiff's Attorney: Lustig Glaser & Wilson, P.C.

Attorney's telephone number: (781)449-3000

Defendant: Cheryl Goldman aka Cheryl E. Goldman  
Book: 7494 Page: 530

Court of Issue: QUINCY (DISTRICT) Execution # 1256CV000039

ORDER of SEIZURE  
grant to HENRY D. GOLDMAN and CHERYL E. GOLDMAN, husband and wife, as tenants  
by the entirety  
of 33 Old Country Way, Weymouth, MA with quitclaim returns

the land in Weymouth, Norfolk County, Massachusetts, with the buildings thereon,  
being shown as Lot 6 on a plan of land entitled "Plan of a Portion of 'Brook  
Hill' Weymouth, Mass., Arthur [REDACTED] and Sons, Inc." by  
Russell M. Whiting, Civil Engineer, dated October 21, 1949, recorded with  
Norfolk Registry of Deeds as Plan No. 1125 of 1949 in Book 2867, Page 522,  
bounded and described as follows:

SOUTHWESTERLY by Old Country Way, as shown on said plan, seventy-nine  
(79) feet;  
NORTHWESTERLY by Lot 7, as shown on said plan, ninety-nine (99) feet;  
NORTHEASTERLY by land now or formerly of Godfrey Battman et al, as shown  
on said plan, seventy-nine and 06/100 (79.06) feet; and  
SOUTHEASTERLY by Lot 5, as shown on said plan, ninety-five and 9/10 (95.9)  
feet.

Containing 7,700 square feet of land, more or less, according to said plan.

By virtue of the attached execution, the original of which is in my hands for the purpose of  
taking the above described real estate, I have this day levied upon, seized and taken all right,  
title and interest that the within named Judgment Debtor had in such real estate in Norfolk  
County.

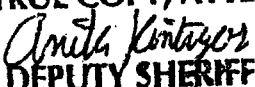
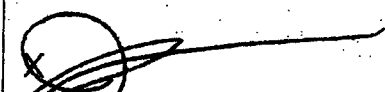
Attached is a true copy of this execution on the above so much of my return as relates to the  
levying upon, seizure, and taking of this real estate on the execution.

*Anita Kintzios*  
Deputy Sheriff  
Jacket: 12017853

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SERVING THE COMMUNITIES OF: AVON, BELLINGHAM, BRAINTREE, BROOKLINE, CANTON, COHASSET, DEDHAM, DOVER, FOXBOROUGH, FRANKLIN, HOLBROOK, MEDFIELD, MEDWAY,  
MILTON, NEEDHAM, NORFOLK, NORWOOD, PLAINVILLE, QUINCY, RANDOLPH, SHARON, STOUGHTON, WALPOLE, WELLESLEY, WESTWOOD, WINTHROP, WYOMING.

OFFICE OF THE SHERIFF

<b>EXECUTION ON MONEY JUDGMENT</b>		DOCKET NUMBER <b>1256CV000039</b>	Trial Court of Massachusetts District Court Department
CASE NAME Midland Funding LLC As Assignee of Chase Bank USA NA / Disney v. Cheryl Goldman			
JUDGMENT DEBTOR AGAINST WHOM EXECUTION IS ISSUED Cheryl Goldman A/K/A Cheryl E Goldman 33 Old Country Way Weymouth, MA 02188		COURT NAME & ADDRESS Quincy District Court One Dennis Ryan Pkwy Quincy, MA 02169	
<b>A TRUE COPY, ATTEST:</b>  <b>DEPUTY SHERIFF</b> <b>DATE 10/2/12</b>		JUDGMENT CREDITOR(S) IN WHOSE FAVOR EXECUTION IS ISSUED Midland Funding LLC As Assignee of Chase Bank USA NA / Disney	
JUDGMENT CREDITOR (OR CREDITOR'S ATTORNEY) WHO MUST ARRANGE SERVICE OF EXECUTION Kenneth C Wilson Esq. Lustig, Glaser & Wilson, P.C. PO Box 549287 Waltham, MA 02454-9287		FURTHER ORDERS OF THE COURT	
<p><b>TO THE SHERIFFS OF THE SEVERAL COUNTIES OR THEIR DEPUTIES, OR (SUBJECT TO THE LIMITATIONS OF G.L. C. 41 § 92) ANY CONSTABLE OF ANY CITY OR TOWN WITHIN THE COMMONWEALTH:</b></p> <p>The judgment creditor(s) has recovered judgment against the judgment debtor named above in the amount shown below:</p> <p><b>WE COMMAND YOU</b>, therefore, from out of the value of any real or personal property of such judgment debtor found within your territorial jurisdiction, to cause payment to be made to the judgment creditor(s) in the amount of the "Execution Total" shown below, plus additional postjudgment interest as provided by G.L. c. 235 § 8 on the "Judgment Total" shown below commencing from the "Date Execution Issued" shown below at the "Annual Postjudgment Interest Rate" shown below, and to collect your own fees, as provided by law. This Writ of Execution is valid for twenty years from the "Date Judgment Entered" shown below. It must be returned to the court, along with your return of service, within ten days after this judgment has been satisfied or discharged, or after twenty years if this judgment remains unsatisfied or undischarged.</p>			
1. Judgment Total		13,360.85	
2. Date Judgment Entered		09/12/2012	
3. Date Execution Issued		09/25/2012	
4. Number of Days from Judgment to Execution (Line 3 - Line 2)		13	
5. Annual Postjudgment Interest Rate		.12	
6. Postjudgment Interest from Judgment to Execution (lines 1x4x5)		\$57.14	
7. Postjudgment costs (if any)		\$	
8. Credit charges		\$	
9. EXECUTION TOTAL (Lines 1 + 6 + 7, minus Line 8)		\$13,417.99	
LEVYING OFFICER: (a) Add daily interest from date execution issued.			
(b) Add your fees as provided by law:			
TESTE OF FIRST JUSTICE	DATE EXECUTION ISSUED	CLERK-MAGISTRATE/ASST. CLERK	
WITNESS: Hon. Mark S Coven	09/25/2012		

## **Exhibit B**

Bk 28801 Pg 269 #45348  
05-13-2011 @ 03:49p

Filing Fee: \$35

The Commonwealth of

**Declaration of Homestead**  
(General Laws Chapter 188, Sections 1 and 1A)

1. Name: HENRY D GOLOMAN and CHERYL E GOLOMAN  
(add a second name only if ELDERLY (over 62 years of age) or DISABLED)

2. Property Address: 33 Old Country Way, Weymouth Massachusetts.  
(street number and street name) (city or town)

3. Select ONE of the following:

☒ For Recorded Land (Deed/Inheritance): The deed being recorded in 7494 - 530  
(book) (page)

or \_\_\_\_\_ from \_\_\_\_\_ Probate Court.  
(docket number) (county)

OR

☐ For Registered Land (Certificate of Title): As Certificate of Title \_\_\_\_\_ registered in the Land  
(number)  
Registration Office in \_\_\_\_\_  
(book) (page)

4. Check if ELDERLY (over 62 years of age) or DISABLED:

☐ I (We), being 62 years of age or older or being physically or mentally disabled and because of such disability, am (are) not able to engage in substantial, gainful employment, which disability is evidenced by the attached award letter from the Social Security Administration or certification by a physician licensed by the Commonwealth of Massachusetts.

I (We) hereby declare that I (we) am (are) possessed of, and occupy said premises as a residence and Homestead as provided in Chapter 188, Section 1 or 1A, of the Massachusetts General Laws, as amended. I (We) expressly reserve the right to myself and my spouse, or to the survivor of us, our legal representatives, to revoke and rescind this Homestead as to ourselves and the rights of our minor, unmarried children.

To be Signed by Applicants in Front of Notary Public:

Witness my (our) hand(s) and seal this 13<sup>TH</sup> day of MAY, 20 11.

Signature(s): [Signature] Cheryl Goloman

For Use by Notary Public Only:

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.  
May 13, 20 11, before me, the undersigned notary public, personally appeared

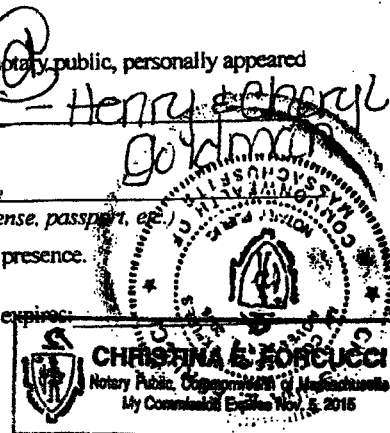
Christina Forcucci - Henry & Cheryl Goloman  
(name(s) of the document signer(s))

proved to me through satisfactory evidence of identification, which were maol  
(drivers license, passport, etc.)

to be the person(s) whose name is (are) signed on the preceding or attached document in my presence.

Notary Public: Christina Forcucci My commission expires: \_\_\_\_\_

RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA





## **Exhibit C**



## Town of Weymouth Property Card

Property Location 33 OLD COUNTRY WAY

Parcel ID 17-226-14

**Current Owner**

GOLDMAN HENRY D & CHERYL E TBE  
33 OLD COUNTRY WAY  
WEYMOUTH, MA 02188



Building 1 of 1

**Additional Owners**

**Current Assessments (All Land and**

Buildings	\$176,500
Extra Building Features	
Other	\$800
Land	\$133,600
<b>Total</b>	<b>\$310,900</b>

**Land Line Valuation**

Size	0.18 acres
Zone	
<b>Assessed Value</b>	<b>\$133,600</b>

**Parcel Record of Ownership**

Grantor	Grantee	Date	Type	Price	Book/Page
	GOLDMAN HENRY D & CHERYL E TBE	03/25/1987	QS	\$119,000	7494/530

US BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

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In re: Henry D Goldman, Cheryl E Goldman  
Debtor s

Chapter 7  
Case No. 1:12-bk-20059

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**CERTIFICATE OF SERVICE**

I hereby certify that on **June 19, 2013**, a copy of **Second Motion to Avoid Judicial Lien** was served by regular United States mail or electronic mail to all interested parties, the Trustee and the following creditors:

**Midland Funding LLC**  
8875 Aero Drive, Suite 200  
San Diego, CA 92123

**Atlas Acquisitions LLC**  
294 Union St.  
Hackensack, NJ 07601  
888.762.9889  
bk@atlasacq.com

Date: **June 19, 2013**

**/s/ Steven Sroczynski**  
**Steven Sroczynski, BBO #680387**  
Attorney for Debtors  
**Thomas F. Williams & Associates**  
**21 McGrath Highway Suite 501**  
**Quincy, MA 02169**  
**(617) 847-4200**  
**ssroczynski@lawofficetwilliams.com**